
IN THE
United States
Circuit Court of Appeals,
FOR THE NINTH CIRCUIT.

Continental National Bank, a Corpora-
tion,

Plaintiff in Error.

vs.

Mary Neville,

Defendant in Error.

ANSWER TO PETITION FOR REHEARING.

GEORGE B. ROSS,

NEWBY & PALMER,

Attorneys for Defendant in Error.

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The defendant in error files the following answer to the petition for rehearing in the above entitled cause:

Appellant has fallen into that error which undertakes to separate the instructions of the court into certain specific paragraphs, totally disconnected from each other and independent of each other. This is not the rule in the federal courts. Here the instructions are one body and they are delivered to the jury as an entirety. It is not permitted in the discussion of the instructions to separate them into phrases, sen-

tences or paragraphs disconnected from and independent of all other phrases, sentences and paragraphs. In order to show that such is the error of appellant, it is only necessary to call the court's attention to pages 4 and 5 of the petition for rehearing; here appellant has undertaken to designate certain portions of the instructions as paragraphs "A and B."

The decision of the court has fully dealt with and fully answered each of the propositions that is advanced by appellant as a reason for rehearing. There can be no doubt of the correctness of the decision handed down by this court, both upon authority and upon reason.

The instructions given in the case specifically told the jury that they were to consider all of the evidence given in the cause in arriving at their verdict. It would be a strange proposition if the court in the trial of a cause could not give instructions to the jury that would be applicable to the evidence as claimed by the plaintiff, and that would enable the jury to apply the law to the evidence of the plaintiff without at the same time and in the same sentence and paragraph stating, also, matters that would be applicable to the testimony of the opposing party especially where the evidence was contradictory. The instructions given in the cause were carefully framed by the court to present the law as it would be if the jury believed the testimony that was presented on behalf of the appellant.

It could not be erroneous to give the appellee the benefit of the same treatment. We are unable to discover in the instructions any contradiction whatever, as has already been said. The only contradictions in the case were in the testimony adduced and these contradictions were matters to be passed upon by the jury.

There is no error in the record. The decision of this court correctly states the law and the rehearing should be denied.

Respectfully submitted,

GEORGE B. ROSS,

NEWBY & PALMER,

Attorneys for Defendant in Error.